

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA)
)
vs.) Cause No. 4:20-CR-00167-HEA
)
DAVID MAAS,)
)
Defendant.)
)

**DEFENDANT'S RESPONSE TO THE GOVERNMENT'S FIRST MOTIONS IN
LIMINE**

Comes now Defendant, David W. Maas, by and through Counsel, Neil J. Bruntrager of Bruntrager & Billings, P.C., and files this Response to the Government's Motions in Limine:

1. Defendant's Out-of-Court Exculpatory Statements

The Defendant has no intention of introducing any out of court exculpatory statements.

2. Prior Acts by Witnesses

Pursuant to Federal Rules of Evidence 608 and 609 evidence of a criminal conviction is admissible for a jury to determine the witness's bias or truthfulness to the extent that Federal Rules of Evidence allow for impeachment of a witness with prior convictions, the Defendant intends to rely upon those rules.

3. Motion to Exclude Witnesses other than the Case Agent

The Defendant has no objection to this Motion but asks that it also include witnesses for the Government.

4. Motion to Exclude Medical and Mental Health History of the Victim

The Defendant asserts that there will be evidence of Isaiah Foreman and his medical conditions including schizophrenia at the time of the arrest that is the subject of this Indictment. Such information is relevant regarding his ability to perceive and recall events and circumstances. And according to the medical records provided by the Government, the alleged victim was on medication for the purpose of controlling his schizophrenia. Such medication may affect Foreman's ability to recall the events and circumstances of April 14, 2019.

5. Charging Decisions of the United States

Defendant has no intention of raising the question of charging Chase Wellington.

6. Charging Decisions of the State of Missouri

The circumstances surrounding the arrest of Isaiah Foreman are relevant. Additionally, charging Foreman with Assault in the First Degree and Armed Criminal Action is certainly relevant to the amount of force necessary to secure his arrest. Just as importantly, it reflects the perception of other police officers who were involved with the arrest. As such, it is relevant in this matter.

7. For Impeachment by Civil Suit

The Government's Motion in Limine in paragraph 7, excluding or limiting evidence relating to the civil lawsuit of Isaiah Foreman for the underlying facts present in this matter, should be denied. Specifically, "a wide range of cross-examination should be allowed to show the motive, interest, or animus of a witness." *Villaroman v. U.S.*, 184 F.2d 261, 262 (D.C. Cir. 1950) (citing *State v. Decker*, 143 S.W.544, 544 (Mo. App. 1912)). Such leeway should be pending litigation related to the matter at hand as well as contemplated legislation. *Id.* Additionally, the Government mischaracterizes the

probative value of the now settled lawsuit as many statements which were made by Isaiah Foreman during its pendency will necessarily need to be repeated for use in the present matter. While it may no longer be pending, the motive it creates lives on in Isaiah Foreman's testimony.

The Defense agrees to the other Motions in Limine unless it pertains to relevant direct or impeachment evidence.

8. Evidence of Defendant's Good Conduct

The Defendant has no direct intent of introducing this information. However, should the Government open the door to such information, the Defendant would intend to produce significant evidence of good conduct.

10. References to Penalties Faced by Defendant

Defendant intends to follow the law in this matter.

BRUNTRAGER & BILLINGS, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of October, 2022, the foregoing **Defendant's Responses to Government's Motions in Limine** was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all attorneys of record.

/s/ Neil J. Bruntrager